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Arrigoni, Holly

From: Bartus, Dave
Sent: Thursday, February 25, 2016 1:32 PM
To: Lynn Grochala; Ernst, William D
Cc: Arrigoni, Holly
Subject: RE: Follow-up from today's meeting - Boeing Plant 2 OA-11 PCB cleanup - TSCA / RCRA coordination
Categories: EZ Record - Shared

Feedback in Green.

From: Lynn Grochala [mailto:Lynn.Grochala@floydsnider.com]
Sent: Thursday, February 25, 2016 11:21 AM
To: Bartus, Dave <Bartus.Dave@epa.gov>; Ernst, William D <william.d.ernst@boeing.com>
Cc: Arrigoni, Holly <Arrigoni.Holly@epa.gov>
Subject: RE: Follow-up from today's meeting - Boeing Plant 2 OA-11 PCB cleanup

Hi Dave, thanks for the follow up. I think this sounds like a reasonable plan, but I have a few clarification questions just to make sure we're on the same page. See below in red.

From: Bartus, Dave [mailto:Bartus.Dave@epa.gov]
Sent: Thursday, February 25, 2016 10:49 AM
To: Lynn Grochala <Lynn.Grochala@floydsnider.com>; Ernst, William D <william.d.ernst@boeing.com>
Cc: Arrigoni, Holly <Arrigoni.Holly@epa.gov>
Subject: RE: Follow-up from today's meeting - Boeing Plant 2 OA-11 PCB cleanup

Lynn:

Holly and I talked a few minutes ago on RCRA/TSCA coordination. During our talk, I recognized that the wording of the risk-based disposal approval language at 761.61(c) reads:

- (1) Any person wishing to sample, cleanup, or dispose of PCB remediation waste in a manner other than prescribed in paragraphs (a) or (b) of this section,....

When you and I talked, I suggested that it would be OK to conduct additional sampling characterization at OA-11 on a self-implementing basis, and to leave the RBDA solely to the actual cleanup/excavation. Given that this language clearly includes sampling, and to avoid any suggestion that additional sampling would have to be conducted in compliance with 761.61(a) (self-implementing cleanup) requirements (which would not make sense), I'd like to suggest the following revision to the path forward:

- 1) Complete development of the additional characterization work plan. I assume you intend this to be a standalone Additional Characterization Work Plan that just outlines the additional data collection needs as opposed to adding the additional characterization details to the draft FCMS and submitting as an Interim Action Work Plan like we discussed yesterday? I was thinking along these lines. That said, if it makes more sense, particularly for purposes of integration with RCRA, the work could be included in the FCMS and submitted as in IA Work plan. The request for the RBDA and the written approval could be focused just on the characterization sampling work. My goal is not to spend time reviewing the balance of the IA Work Plan until its elements have been updated to reflect additional characterization data and the sewer pipe removal. I'm more than willing to be creative and flexible for purposes of efficiency and clarity.

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- 2) Submit the work plan under both RCRA and TSCA. Under TSCA, I'll prepare a focused RBDA that provides approval only for the sampling and analysis, with a brief discussion of how the results will feed into a subsequent submission/approval for the actual cleanup later on. Assume then we'll concurrently receive RCRA approval or is it presumed with TSCA approval? This is really a Holly question, but I think the intent is to have explicit approval (in whatever form that might be....) from both programs. I would not make any presumption that either program speaks for the other in written approvals, even as we both intend to work in a fully integrated manner.
- 3) Based on results of additional characterization and development of sewer pipe removal work elements, submit the final corrective measures to RCRA and TSCA. Under TSCA, I'll prepare a second RBDA that provides approval for the actual cleanup. Assume this would be an Interim Measure Work Plan like we previously discussed in the team meeting a few weeks ago and not FCMS? SO this submittal would include the draft FCMS (as an IMWP) with the summary of additional characterization data, stormwater line removal details, and any additional necessary design details and revisions based on new data, as we discussed yesterday. I'll defer to Holly on this one. The essential element of my proposal is to have early written approval of the additional sampling work under TSCA. I think the decision as to what title documents have under the RCRA process is Holly's call. I'm more interested in the substantive content, not the document title.

Under this mode, Step 3 is identical to what we talked about yesterday. The key difference is that we'll have an additional, but very streamlined and focused RBDA to provide written approval for additional characterization approval. While it may seem counter-intuitive, my thoughts are that it is easier and faster to do two RBDA approvals under TSCA than trying to do an adaptive management approach (Holly's suggestion, and a good option at that) where we set out a sequence of submittals/approvals. While this revised approach does include a bit more work to better reflect what the TSCA rules actually require, I'm pretty comfortable that it is more streamlined than one based on submission of the FCMS and having to evaluate the proposed remedy under TSCA prior to the time that the additional soil characterization data are available and the pipe removal work elements are defined.

This new option is consistent with your note below that the RBDA application letter we looked at yesterday and discussed in your e-mail below. That letter will be the Step 3 submittal later. What will be needed is a similar but distinct cover letter transmitting the additional characterization sampling work plan to EPA in the form of a request for a 761.61(c) approval. OK, sounds good.

Thoughts? I like it, it does seem to streamline the process, and will eliminate the need for an Interim Measure WP Addendum once the new data are ☺ collected.

Dave

From: Lynn Grochala [<mailto:Lynn.Grochala@floydsnider.com>]
Sent: Thursday, February 25, 2016 8:11 AM
To: Bartus, Dave <Bartus.Dave@epa.gov>
Subject: RE: Follow-up from today's meeting - Boeing Plant 2 OA-11 PCB cleanup

Thanks Dave, I also confirmed Will has not sent out the RBDA Application letter yet, so he'll sit on it til we're ready. Thanks!

From: Bartus, Dave [<mailto:Bartus.Dave@epa.gov>]
Sent: Wednesday, February 24, 2016 4:13 PM
To: Lynn Grochala <Lynn.Grochala@floydsnider.com>
Cc: Arrigoni, Holly <Arrigoni.Holly@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>
Subject: Follow-up from today's meeting - Boeing Plant 2 OA-11 PCB cleanup

Lynn:

I checked with the regulations on the question of whether or not Jorgensen Forge will need to sign the application for the OA-11 TSCA RBDA. For the benefit of Alexander, I'll note that a small part of the cleanup will occur on Jorgensen Forge property, with the bulk of the cleanup on Boeing, with Boeing conducting the cleanup.

The requirements for 761.61(c) require that the application for an RBDA contain the information at 40 CFR 761.61(a)(3). These requirements, in turn, include a requirement that the application contain a certification, signed by the owner of the property where the cleanup site is located and the party conducting the cleanup. See 40 CFR 761.61(a)(3)(E). Therefore, the cover letter requesting the approval can be signed just by Boeing, but the certification statement must be signed by both Boeing and Jorgensen.

When you get a moment, Holly, let's chat on a couple of other RCRA/TSCA coordination questions that Lynn and I had during today's conversation about the TSCA RBDA process.

I'm copying Alexander, our TSCA attorney, in case he sees something I'm missing.

Hope this helps.